

REMARKS

Claims 1 through 9 and 11 were pending in this Application. Applicant acknowledges, with appreciation, the Examiner's indication that claims 2 and 5 contain allowable subject matter. See Advisory Action dated August 20, 2007. By way of the present amendment, claim 5 has been recast in independent form, claim 1 has been amended to include the allowable subject matter of claim and claim 11 has been cancelled.

Applicant submits that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this application in condition for allowance.

Claims 1, 3-4, 6-8 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over DiGiovanni et al. (U.S. Pat. No. 6,504,973, hereinafter "DiGiovanni") in view of Akasaka et al. (U.S. Pat. No. 6,292,288, hereinafter "Akasaka"). Independent claim 1 has been amended to include the allowable subject matter of claim 2 and independent claim 11 has been cancelled. Thus, this rejection is moot.

Dependent claim 2 was rejected under 35 U.S.C. § 103 for obviousness predicated upon DiGiovanni in view of Akasaka and further in view of Bolshtyansky et al. (U.S. Pat. No. 6,456,426, hereinafter "Bolshtyansky"). This rejection is moot in view of the cancellation of claim 2.

Moreover, the Examiner, in the Advisory Action dated August 20, 2007, stated that Applicant's previous arguments regarding the rejection of claim 2 were persuasive and claim 2 would be allowable if rewritten in independent form.

Dependent claim 9 was rejected under 35 U.S.C. § 103 for obviousness predicated upon DiGiovanni in view of Akasaka and further in view of Tsuzaki (Broadband Discrete Fiber Raman Amplifier with High Differential Gain Operating Over 1.65 μ m-band (2000)). This

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rejection is moot. Dependent claim 9 depends ultimately from claim 1 and, therefore, is in condition for allowance for the same reasons as independent claim 1. If any independent claim (claim 1) is non-obvious under 35 U.S.C. § 103(a), then any claim depending therefrom (claims 3-4 and 6-9) is non-obvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

It is believed that pending claims 1 and 3-9 are now in condition for allowance. Applicant therefore respectfully requests an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicant's representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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